

# **City/Village TIF**

## **Joint Review Board Supplemental Data**

### **for TIDs**

The Joint Review Board has responsibility to approve or deny the creation of new TIF districts or the amendment of existing districts. The Board must act to approve the resolution adopted by the local governing body **within 30 days** of receiving the resolution. No district may be created or amended unless the Joint Review Board approves.

#### **JOINT REVIEW BOARD DOCUMENT REVIEW**

Section 66.1105(4)(i) contains a list of information and projections the municipality must provide the Joint Review Board to assist in their review. These items are:

1. A list of project costs, the total amount to be paid with tax increments, and the tax increments to be generated over the district's life.
2. The increased property value in the district when the project costs are paid and the district is terminated.
3. The reasons why owners of property in the district that benefit from the improvements should not pay for them.
4. The share of projected tax increments that will be paid by owners of taxable property in each of the overlying taxing jurisdictions.
5. The benefits received by property owners in these jurisdictions to compensate them for their share of the projected tax increments.

#### **A List of Project Costs, Tax Increments and Increased Property Values**

The first two items can be found in projections included in the project plan. Total project costs would be found in the detailed list of project costs. The economic feasibility study should contain a projection of the tax increment to be generated.

#### **Why Property Owners In the District Should Not Pay For Public Improvement**

The reasons property owners that benefit from improvements in the district should not pay for them are as varied as the reasons for creating a district. In theory, the property owners in the district do pay the project costs through increased property taxes.

Also, in theory, property owners in other taxing jurisdictions pay no more than they would have if the district had not been created. This is because the value increments experienced by the district would not occur without TIF, so all else being equal, their share of the various levies would be the same. Another reason might be the conclusion that development would not happen or would occur later without TIF, because high development costs do not make good economic sense. When profit margins are not within an acceptable range, developers look elsewhere for opportunities.

#### **The Share of Tax Increments Paid By Other Taxing Entities**

The share of projected tax increments paid by property owners in the overlying districts should be determined for each year an increment is anticipated. One way to calculate it is to apportion each estimated tax increment in the project plan TIF revenue projection. Each overlying district's share would be based on its historic percent of the tax rate. For instance, if the school levy represents 47% of the tax dollar, its share of the projected tax increments would be 47% of the total.

#### **Benefits Received to Compensate For Tax Increments**

The benefits property owners will receive as compensation for their share of the increments may be easily identified or more subtle. The obvious benefit is increased property values that supposedly would not happen without TIF. When the district is terminated, the increased value will become part of the tax base for all jurisdictions. The result should be lower tax rates than would be the case if the increase had not taken place. Some of the more subtle reasons might be increased job opportunities, a better business climate, and improved economic conditions.

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## **ESTABLISHING THE “BUT FOR” FINDING**

The Joint Review Board must make a decision based on the documents described above. There are three specific criteria they must use to approve a proposal. They are:

1. Would the expected development occur without the use of tax incremental financing?
2. Will the economic benefits of the development compensate for the cost of the improvements?
3. Do the benefits outweigh the taxes that residents of overlying districts are expected to pay?

Each of these criteria is important to ensure that the TIF project will be beneficial for all taxpayers in the overlying districts. Many people consider the first one, often called the “but for test,” the most important of the criteria.

The “but for test” gets its name from the phrase “This development would not happen but for the use of TIF.” What that means is that the developer would not consider the project economically viable without the use of TIF to pay for the infrastructure improvements that are needed.

When deciding that a proposal passes the “but for test,” the city/village and the developer must demonstrate that paying for the improvements makes the project unprofitable for the developer. Only with the financial support of the taxpayers will this development happen. One way to demonstrate this would be to compare the net present value of the expected revenues from the development to the anticipated cost of the improvements plus the cost of developing the district.

## **DEPARTMENT OF REVENUE REVIEW PROCEDURE**

Once the Joint Review Board has reached a decision and taken action to approve or deny the creation of the district, they have **7 days** to submit the decision to the city/village governing body.

Section 66.1105(4m)(b)4 creates a procedure for the members of the Joint Review Board to request that the Department of Revenue (DOR) review the objective facts contained in any of the documents listed above. The process of requesting a DOR review is as follows:

- A majority of the members of the board must support the request.
- A request must be submitted in writing to the Department of Revenue, and must specify which particular objective fact or item the members believe is inaccurate or incomplete.
- Not more than 10 working days after receiving a request for review that complies with the filing requirements, the Department of Revenue will investigate the issues raised and send a written response to the Board.
- If the Department of Revenue determines that the information does not comply with the law or contains a factual inaccuracy, department staff will return the proposal to the city/village.
- The Board may request, but may not require, that the city/village resubmit the proposal for review. If the proposal is resubmitted, the Board will vote to approve or disapprove as otherwise specified in TIF law.

If the Joint Review Board requests a Department of Revenue review, they must submit their decision to the city/village within **10 working days** of receiving the department's written response.

If the city/village resubmits the proposal no later than 10 working days after the Board receives the department's written response, the Board shall submit its decision to the city/village no later than **10 working days after** receiving the resubmitted proposal.

## **POST APPROVAL ROLE FOR JRB**

After approving the creation of a district, the Joint Review Board still has two responsibilities: to approve or deny amendments of all kinds, and to receive and review the periodic district audits.

A standing Joint Review Board can remain in existence as long as a district exists, but the city/village can disband the Board at any time.